



**RESOLUTION OF THE GOVERNING BODY OF THE  
THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD INDIAN RESERVATION**

*A Resolution entitled, “Consent to Approval of a Right-of-Way across Tribal land (T 1799 -F) for the Woman Creek Expansion and Modification Project Submitted by Enerplus Resources (USA) Corporation.”*

- WHEREAS,** The Mandan Hidatsa and Arikara Nation (the “Nation”), also known as the Three Affiliated Tribes, having accepted the Indian Reorganization Act of June 18, 1934, the authority under said Act, and having adopted a Constitution and By-laws (the “Constitution”) under said Act, and
- WHEREAS,** Pursuant to Article III, Section 1 of the Constitution, the Tribal Business Council is the governing body of the Tribes; and
- WHEREAS,** The Constitution authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the MHA Nation and of the enrolled members thereof; and
- WHEREAS,** Pursuant to Article VI, Section 5(1) of the Constitution, the Tribal Business Council has the power to adopt Resolutions regulating the procedures of the Tribal Council, its Agencies and Officials; and
- WHEREAS,** Article IX, Sections 1 and 3 of the Constitution, provides that the Tribal Business Council has the authority to manage and lease or otherwise deal with tribal lands and resources; and
- WHEREAS,** Leases and Rights-of-Way (“ROWS”) across Tribal Trust land require the consent of the Tribal Business Council pursuant to federal and Tribal Law; and
- WHEREAS,** Applications for Rights-of-Way (“ROWS”) on Tribal Land are subject to the requirements of tribal law, including Resolution No. 13-109-VJB (Establishing Standardized Minimum Rates for Oil and Gas Lease Bonus, Royalties and Road and Pipeline Easements), Resolution No. 14-071-VJB (MHA Nation Application for Rights-of-Way and Use of Right-of-Way), Resolution No. 14-089-VJB (MHA Nation Pipeline Right-of-Way Terms and Conditions), and Resolution No. 15-045-LKH (Establishing a Procedure for the Approval of Leases, Rights-of-Way, Setback Variances and Permissions to Survey on Tribal Land), Resolution No. 17-117-FWF (Approval of Fee Structure), and Resolution No. 18-212-FWF (Amending Fee Structure); and



**WHEREAS,** Enerplus Resources (USA) Corporation submitted a ROW application for the Woman Creek Expansion and Modification Project as follows:

- 5.041 acres of new surface use area for the well pad expansion, in addition to the existing 4.430 acres of existing surface use area on FBOG090006 for a total of 9.471 disturbed acres on allotment T 1799 -F with Five (5) additional new wells (the “well pad project”), across certain tribal tracts in Allotments (T 1799 -F) in Section 4, of Township 148 North, Range 93 West, in Dunn County, North Dakota, with 100% tribal interest; and

**WHEREAS,** The ROW application, has been reviewed and recommended for approval in accordance with the MHA Nation’s approved procedure for authorizing ROWs on Tribal Land.

**NOW THEREFORE BE IT RESOLVED,** Subject to the MHA Nation Standard Terms and Conditions for Right-of-Ways, and payment of applicable ROW fees, the Tribal Business Council hereby approves the ROW application, attached as Appendix A.1, and consents to the following ROW:

- Enerplus Resources (USA) Corporation – 5.041 acres of new surface use area for the well pad expansion, in addition to the existing 4.430 acres of existing surface use area on FBOG090006 for a total of 9.471 disturbed acres on allotment T 1799 -F with Five (5) additional new wells (the “well pad project”), across certain tribal tracts in Allotments (T 1799 -F) in Section 4, of Township 148 North, Range 93 West, in Dunn County, North Dakota, with 100% tribal interest

**BE IT FURTHER RESOLVED,** The ROW shall have a 20 year term, from the date of the BIA’s grant of the ROW.

**BE IT FURTHER RESOLVED,** The Tribal Business Council does not consent to waive any bond, insurance, or alternative form of security.

**BE IT FURTHER RESOLVED,** The MHA Nation Standard Terms and Conditions for Right-of-Ways are incorporated into this consent to the grant of the ROW, and therefore, as provided in 25 CFR §169.107(a), the Tribal Business Council requests the Bureau of Indian Affairs to incorporate these terms and conditions into the ROW grant.

**BE IT FURTHER RESOLVED,** The MHA Nation retains the authority to issue fines and set conditions to address and resolve ROW trespass, abandonment, non-use, and other violations, including violations of applicable MHA Nation Standard ROW Terms and Conditions, and further requests the Bureau of Indian Affairs to defer



to these remedies, in accordance with the intent and notice provisions in 25 CFR §169.403(a).

**BE IT FURTHER RESOLVED,** In accordance with governing MHA Nation law and policy as well as applicable federal ROW regulations, all ROW grantees must obtain the prior written approval from the MHA Nation before assigning any ROW that contains any Tribal interest.

**BE IT FINALLY RESOLVED,** That the Chairman is hereby authorized to execute such documents and take such further actions as are necessary to carry out the terms and intent of this Resolution.

[THIS SPACE INTENTIONALLY LEFT BLANK. CERTIFICATION FOLLOWS.]



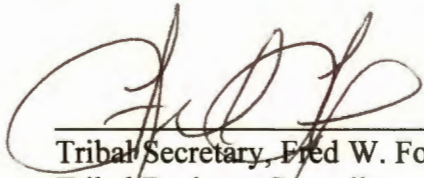
**CERTIFICATION**

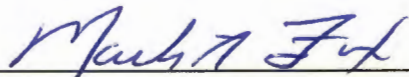
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 8<sup>th</sup> day of October, 2020, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [ X ] Voting. [ ] Not Voting.

Dated this 8<sup>th</sup> day of October, 2020.

**ATTEST:**

  
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Tribal Secretary, Fred W. Fox  
Tribal Business Council  
Three Affiliated Tribes

  
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Tribal Chairman, Mark N. Fox  
Tribal Business Council  
Three Affiliated Tribes